

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Updating the Intercarrier Compensation Regime)	WC Docket No. 18-155
To Eliminate Access Arbitrage)	

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation (“Sprint”) hereby respectfully submits its reply to comments filed on July 20, 2018, in the above-captioned proceeding. As discussed briefly below, addressing inefficient access stimulation schemes and accelerating broadband deployment are best accomplished through the implementation of full bill-and-keep and the establishment of a handful of points of interconnection (“POI”) nationwide where all service providers connect either directly or indirectly, and assume responsibility for delivering and retrieving their traffic. If the Commission declines to implement full bill-and-keep expeditiously, it should take immediate targeted action to mitigate harmful access arbitrage by requiring access stimulators to bear the cost of intermediate transport, while ensuring that interexchange and CMRS carriers retain the ability to choose either direct or indirect interconnection, whichever best meets their customer and network needs.

1. Access Arbitrage Remains a Serious Problem and Is Best Addressed by Full Bill-and-Keep

As the Commission described in its NPRM in this proceeding, and as numerous commenting parties have confirmed, access arbitrage, including traffic pumping in various forms, remains a serious problem and results in harmful inefficiencies and

financial burdens on interexchange and wireless service providers which are subjected to these schemes.¹ Nonetheless, a few parties, including HD Tandem,² a coalition of CLECs,³ Aureon,⁴ and Greenway Communications⁵ – all of whom apparently engage in or otherwise benefit from traffic pumping schemes -- have argued that certain types of “free” or high calling volume services, and the networks that support such services, are beneficial and should not be subject to this rulemaking or curtailed by any additional regulatory reforms. Such arguments should be rejected.

While it may well be that free services are of value to some end users, it is not reasonable to offer “free” services that are paid for, or at least subsidized by other parties as the result of traffic pumping and other access arbitrage schemes. The traffic pumping companies and other parties promoting access arbitrage engage in such activities to generate revenue from unnecessary routing scenarios, at the expense of other carriers and their customers. The Commission should consider more, not fewer, measures to control access arbitrage.

¹ See, e.g., NPRM at para. 6; comments of Sprint, p. 1; CenturyLink, p. 5; AT&T, p. 1; Verizon, p. 1; NCTA, p. 2; Inteliquent, p. 1; HD Tandem, p. 7; Iowa Communications Alliance, p. 4.

² See, e.g., comments of HD Tandem, which has “direct connections to 14 individual LECs hosting high volume applications... in rural locations” (p. 3), urging the Commission “to promote a stable regulatory environment for the continued development and innovation of...pro-consumer high volume applications...” (p. 8).

³ Joint comments of Western Iowa Networks, Goldfield Access Network, Great Lakes Communication Corp., Northern Valley Communications, and Louisa Communication, p. 30 (asserting that “many rural counties in Iowa and South Dakota have been able to close the digital divide in substantial part because of access stimulation”).

⁴ Aureon comments, p. 3 (Aureon has helped to ensure that rural Iowa has access to modern voice, broadband and video services, and the Commission should continue to require mandatory use of Centralized Equal Access (“CEA”) services provided by Aureon and other carriers).

⁵ Greenway comments, p. 3 (asserting that services such as chat lines, adult entertainment services, and free conferencing services offer value to end users).

The Commission has long recognized the flaws in the “outdated” legacy access charge regime, which was “riddled with inefficiencies and opportunities for wasteful arbitrage” that destabilized companies’ ICC revenues; impeded investment; led to costly disputes, arbitrage “schemes,” and competitive distortions; and forced millions of Americans to pay more for their wireless and long distance service than they should because of “hidden, inefficient charges.”⁶ The Commission emphasized the need to transition to bill-and-keep, stating (*id.*):

We need a more incentive-based, market-driven approach that can reduce arbitrage and competitive distortions by phasing down byzantine per-minute and geography-based charges. And we need to provide more certainty and predictability regarding revenues to enable carriers to invest in modern, IP networks.

Given the dubious claims relating to the public interest benefits of various traffic pumping schemes, and the well-documented inefficiencies and costs resulting from such schemes, the Commission should immediately move to full bill-and-keep in order to prevent, or at least minimize, access arbitrage.⁷

Full bill-and-keep removes the financial incentive to engage in access arbitrage, in contrast to the alternative proposal in the NPRM which would require terminating LECs to accept direct connections from an IXC or its chosen intermediate access provider. The latter approach will not prevent excessively high transport costs that would result from designating a POI at a far-distant exchange,⁸ and could simply encourage arbitrage schemes related to direct connections.⁹

⁶ *Connect America Fund, et al.*, 26 FCC Rcd 17663, para. 9 (2011).

⁷ *See, e.g.*, Sprint, p. 2; AT&T, p. 5; Verizon, p. 1; CenturyLink, p. 2.

⁸ Transport charges obviously will be high if the designated POI is many miles distant. In addition, a blended switched transport rate charged by an intermediate carrier will be inflated if it was calculated using a high volume of pumped traffic transported from the tandem switch to the distant POI. If the Commission mandates that the traffic pumping

2. IXC's and CMRS Carriers Should Retain the Option of Choosing Either Direct or Indirect Interconnection

Rather than mandating (or allowing an ILEC or ILEC affiliate to mandate) direct or indirect interconnection, the Commission should ensure that service providers retain the option of doing either – whichever interconnection arrangement best meets their business and network needs in a given location. There are legitimate reasons for both direct and indirect interconnection, and competitive carriers should remain free to deploy either direct or indirect connections. The Commission should avoid or eliminate any limitations on this choice. Accordingly, it should be cautious about adopting any proposal to require competitive carriers to accept direct connections; forbid terminating LECs from mandating indirect interconnection via a specified intermediate carrier; and end the mandatory use policy applicable to some Centralized Equal Access providers.

Mandating a specific form of interconnection to address access arbitrage is unlikely to be successful. As noted above, a requirement that originating carriers interconnect directly with a terminating LEC will not prevent excessively high transport charges associated with far-distant POIs, and will encourage new forms of arbitrage that focus on direct trunk transport. A requirement to interconnect indirectly with a specified carrier is anticompetitive and could result in excessively high traffic sensitive access costs.

traffic carrier must pay for its own transport from/to the intermediate tandem owner, the intermediate tandem owner should be required to calculate its blended average transport distance for traffic that does not include pumped traffic.

⁹ See, e.g., Sprint, p. 4; AT&T, p. 2; NCTA, p. 2 (expressing concern that access stimulating LECs might attempt to charge excessive rates for direct connections to compensate for lost access stimulation revenues); Aureon, p. 21 (direct connections may shift access arbitrage to direct trunked transport); Inteliquent, p. 2 (proposing to cap transport mileage at 10 miles for access stimulated traffic to address inflated transport charges).

Attempts to mandate direct connections with specific carriers are on-going. For example, HD Tandem has suggested that the Commission “could declare that if a company like HD Tandem supplies terminating LECs with a network edge/POI that aggregates at least five such LECs, then the refusal of an originating carrier to directly connect at that POI is *per se* unreasonable and subject to enforcement by the Commission.”¹⁰ This proposal is without merit and should be rejected. While originating carriers should be open to discussing direct interconnections with an intermediate or terminating carrier, they may have legitimate and rational business reasons to decline such offers (including the possibility of unreasonable rates) and should not be forced into such arrangements.

The mandatory use policy associated with CEA networks, particularly as it involves stimulated traffic, is also highly problematic. The Commission has correctly stated that access stimulation appears to present “a reasonable circumstance for departing from the policy of permitting mandatory use requirements because delivery of such traffic, particularly in the pertinent volumes, was not the purpose for which CEA providers were formed.”¹¹ Certain CEA providers oppose the Commission’s analysis in this regard, arguing that CEA networks are critical to helping bridge the digital divide in rural communities.¹² Aureon has argued not only that CEA providers should retain their

¹⁰ HD Tandem, p. 13; see also, HD Tandem, p. 2 (asserting the importance of the “overriding principle of reciprocity- both reciprocity in bill-and-keep arrangements and reciprocity in imposing a fair obligation for entities to establish direct connection arrangements or their functional equivalent.”) Sprint agrees that reciprocity is important and that the direct connection option should be available to parties that mutually wish to make such network arrangements. However, reciprocity should not be confused with zero-cost peering. There are legitimate reasons why zero-cost peering may not be reasonable or economically rational (*e.g.*, where significant traffic imbalances exist).

¹¹ NPRM, para. 17.

¹² See, *e.g.*, Iowa Communications Alliance, p. 2.

monopolies, but also that if new anti-pumping rules significantly reduce CEA providers' traffic volumes, those CEA providers should be allowed to circumvent existing rate caps if necessary to keep their networks financially viable.¹³

Equal access requirements are a thing of the past, and were largely eliminated several years ago when the Commission decided to no longer enforce "1980s "equal access" rules protecting stand-alone residential long-distance, a product that is disappearing."¹⁴ Equal access is irrelevant to CMRS services used by a large majority of American consumers -- CMRS customers do not choose a stand-alone long distance carrier, and for the most part do not even distinguish between local and long distance calls made using their wireless service. Indeed, equal access is an originating function provided to retail end users, and is separate and distinct from the traffic termination problems created by traffic pumping schemes. Maintaining a CEA mandatory use policy simply makes no sense in a world where equal access to a stand-alone long distance carrier is largely irrelevant, and it is surely inefficient to mandate on-going and potentially open-ended support of a service or network that does not meet current needs.¹⁵ Eliminating the CEA mandatory use policy for the termination of traffic does not constitute a "dismantling"¹⁶ of CEA networks; "CEA" providers would be free to offer access tandem or intermediate carrier services in (potential) competition with other providers.

¹³ Aureon, p. 14.

¹⁴ See "FCC Eliminates Dated Phone Industry Rules," Public Notice dated Dec. 17, 2015, <https://docs.fcc.gov/public/attachments/DOC-336911A1.pdf>.

¹⁵ See also, AT&T, pp. 4 and 18.

¹⁶ Iowa Communications Alliance, p. 5.

It may be true that CEA providers use access revenues imposed on interexchange and CMRS carriers to upgrade their networks to help provide “broadband, high definition video, and other advanced services” to rural consumers.¹⁷ However, this sort of implicit cross-subsidy is contrary to the principle that access rates should reasonably reflect the cost of providing access service, and that subsidies, including universal service support, be explicit and “specific.”¹⁸

3. Safe Harbor POIs Are In the Public Interest

In its comments, T-Mobile has again put forward its “Safe Harbor POI Solution,” which would establish 8-10 points of interconnection nationwide where all service providers could connect directly or indirectly.¹⁹ Rather than requiring interconnection at hundreds or thousands of legacy TDM locations for the exchange of voice traffic, T-Mobile’s proposal represents a rational network design that would allow the industry to take advantage of the enormous network and cost efficiencies of having IP voice traffic use the same IP network infrastructure used today to transport and interconnect IP data and video. IP voice will utilize a tiny fraction of the capacity on current IP networks, and it is likely that the incremental cost to add voice is close to zero.

Today, Sprint interconnects and exchanges traffic with other carriers for the majority of its traffic using just such a “Safe Harbor POI” arrangement. Sprint has entered into more than a dozen settlement-free IP peering arrangements under which traffic is exchanged in just a handful of locations across the nation. Notably, Sprint has generally not entered into such

¹⁷ Aureon, p. 21. If true, this suggests that CEA rates exceed the cost of providing the tandem transport service, with the excess earnings then used to support other services.

¹⁸ See Section 254(b)(5) of the Communications Act.

¹⁹ T-Mobile comments, pp. 14, 20. Sprint has previously submitted a similar proposal (*see, e.g.*, comments filed by Sprint on February 24, 2012 in WC Docket 10-90 *et al*).

IP peering agreements with ILECs and carriers with ILEC affiliates which collect access charges from other carriers. T-Mobile also stated that it exchanges 75% of its voice traffic through direct connections with other retail service providers,²⁰ suggesting that efficient and mutually beneficial network engineering design prevails where the imposition of access charges is not a consideration. The Commission can help speed the transition to full IP interconnection by promptly implementing full bill-and-keep.

Accordingly, the Commission should rule that IP voice POIs should presumptively be located at the relative handful of places where IP network operators currently exchange their non-voice traffic. The Safe Harbor POI solution will promote broadband deployment and adoption, and it should be adopted immediately.

Respectfully submitted,

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²⁰ T-Mobile comments, p. 5.